

Article - Tax - General

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§13–825.

(a) The Comptroller may require a person whose gross receipts are subject to admissions and amusement tax and whose business is not a permanent operation in the State to post security for the tax in the amount that the Comptroller determines.

(b) The Comptroller shall require:

(1) a manufacturer, wholesaler, or nonresident winery permit holder who sells or delivers beer or wine to retailers in the State to post security for the alcoholic beverage tax:

(i) in an amount not less than:

1. \$1,000 for beer; and

2. \$1,000 for wine; and

(ii) if the alcoholic beverage tax on beer and wine paid in any 1 month exceeds \$1,000, in an additional amount at least equal to the excess;

(2) a manufacturer or wholesaler who sells or delivers any distilled spirits or any wine and distilled spirits in the State to post a security for the alcoholic beverage tax:

(i) in an amount not less than \$5,000; and

(ii) in an additional amount:

1. equal to twice the amount of its largest monthly alcoholic beverage tax liability for wine and distilled spirits in the preceding calendar year less \$5,000; or

2. if the information for the preceding calendar year is not available or cannot be provided, equal to the amount that the Comptroller requires; and

(3) except as provided in subsection (i) of this section, a holder of a direct wine shipper's permit to post security for the alcoholic beverage tax in an amount not less than \$1,000.

(c) The Comptroller may require a person whose gross receipts are subject to the boxing and wrestling tax to post security for the boxing and wrestling tax in the amount that the Comptroller determines.

(d) The Comptroller may require a real estate investment trust to post security for income tax in the amount that the Comptroller requires, if the trust:

(1) does not hold property in the State; or

(2) holds insufficient property in the State to provide adequate security for the income tax if the property were to become subject to a lien under this subtitle.

(e) The Comptroller may require a person seeking a refund of motor carrier tax to post security for the tax in an amount of not less than \$5,000 but not more than \$100,000.

(f) The Comptroller shall require an applicant for any license under Title 9 of this article, except for a Class "W" license, to post security for the motor fuel tax in the amount that the Comptroller requires, but not less than:

(1) \$200,000 for a Class "A" license;

(2) \$50,000 for a Class "B" license;

(3) \$10,000 for a Class "C" license;

(4) \$200,000 for a Class "D" license;

(5) \$1,000 for a Class "F" license;

(6) \$10,000 for a Class "G-Temporary" license;

(7) \$1,000 for a Class "S" license; and

(8) \$1,000 for a Class "U" license.

(g) The Comptroller may require a person subject to the sales and use tax to post security for the tax in the amount that the Comptroller determines.

(h) (1) The Comptroller may require a person subject to the tobacco tax to post security for the tax in the following amounts:

(i) for a manufacturer or wholesaler:

1. \$10,000, plus
2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$10,000;

(ii) for a subwholesaler or vending machine operator:

1. \$1,000, plus
2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$1,000; and

(iii) for another tobacco products wholesaler:

1. \$5,000, plus
2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$5,000.

(2) Except as provided in paragraph (5) of this subsection, the Comptroller may exempt a person from posting security for the tobacco tax if the person is and has been for the past 5 years:

(i) licensed as required under § 16-202 of the Business Regulation Article to act as a wholesaler or § 16.5-201 to act as an other tobacco products wholesaler; and

(ii) 1. in continuous compliance with the tobacco tax laws, as determined under paragraph (3) of this subsection; and

2. in continuous compliance with the conditions of the person's security posted under this subsection.

(3) For purposes of paragraph (2) of this subsection, a person is in continuous compliance with the tobacco tax laws for a period if the person has not, at any time during that period:

(i) failed to pay any tobacco tax or any tobacco tax assessment when due;

(ii) failed to file a tobacco tax return when due; or

(iii) otherwise violated any of the provisions of this title, Title 12 of this article, or Title 16 or Title 16.5 of the Business Regulation Article.

(4) (i) An exemption granted under paragraph (2) of this subsection is effective only to the extent that a person's potential tobacco tax liability does not exceed an amount determined by the Comptroller based on the person's experience during the 5-year compliance period under paragraph (2) of this subsection.

(ii) The Comptroller may revoke an exemption granted to a person under paragraph (2) of this subsection if the person at any time fails to be in continuous compliance with the tobacco tax laws, as described in paragraph (3) of this subsection.

(iii) The Comptroller may reinstate an exemption revoked under subparagraph (ii) of this paragraph if the person meets the requirements of paragraph (2)(i) and (ii) of this subsection for a period of 2 years following the revocation.

(5) The Comptroller may not exempt a person from posting a bond or other security for the tobacco tax unless the Comptroller determines that the person is solvent and financially able to pay the person's potential tobacco tax liability.

(6) If a corporation is granted an exemption from posting a bond or other security for the tobacco tax, any officer of the corporation who exercises direct control over its fiscal management is personally liable for any tobacco tax, interest and penalties owed by the corporation.

(i) A person need not post security under subsection (b)(3) of this section if:

(1) the person is a manufacturer that has posted security under subsection (b)(2) of this section; or

(2) at any time starting 3 years after the Comptroller first issues a direct wine shipper's permit to the person, the Comptroller:

(i) determines that the person has a substantial record of tax and reporting compliance; and

(ii) waives the security requirement.

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